

December 2005 Litigation Report

To: Mayor McCoy & County Commissioners
 From: Bob Shillinger, Asst. County Attorney *BS*
 Date: December 18, 2005
 cc: Tom Willi, County Administrator
 Richard Collins, County Attorney

Summary

<u>Number of Cases</u>			
New cases filed since last month	5	Airports	2
Cases closed since last report	7	Community Services	2
CAY active cases ⁱ	46	Engineering	6
CAY Post Judgment cases	4	Growth Management	60
Potential cases not yet filed	8	Miscellaneous ⁱⁱ	5
Outside Counsel Cases	39	MCSO	4
		Personnel	4
		Public Works	5
Total Cases pending	73	Risk Management	6
New Cases		Page	2
Cases Closed			3
CAY Litigation Cases Trial & Appellate Level			5
CAY Post Judgment Cases			12
Potential Cases			13
Outside Counsel Cases			12
Ferencik, Libanoff (Ira Libanoff) (3 cases)			16
Johnson, Anselmo, (Bruce Johnson & Michael Burke) (11 cases)			17
Morgan & Hendrick (Derek Howard) (6 cases)			20
Paul, Hastings (Bob Freilich) (2 cases)			22
Purdy, Jolly (Mike Stephson) (2 cases)			23
The Smith Law Firm (Wayne Smith) (2 cases)			23
Vernis & Bowling (D.Smits, K.Willis & S.Black) (13 cases)			24
White & Smith (Tyson Smith & Steve Moore) (1 case)			22

CASES FILED SINCE LAST MONTH'S REPORT

In re: Meghan Cole **05-43879 RAM**

Bankrtcy. S.D.Fla. **Judge: Mark** **Date Filed: 10/17/05**

Bankruptcy action by tenant of County property. County owed \$760.00 in rent.

Bankruptcy **RBS**

Current Status: Reviewing to determine if any action cost effective.

Next Activity: 1/6/6 objection to exemptions deadline.

Time: 0.5 **Costs:** 0.00

Kessler, Stuart v. Monroe County & Tom Willi **3D05-2755**

Third DCA **Judges: TBA** **Date Filed: 11/28/05**

Appeal of non-final order denying Kessler's petition for temporary reinstatement.

Personnel/Risk Management **RBS**

Current Status: Will be handled jointly with Johnson, Anselmo.

Next Activity: Kessler's brief due 2/6/6.

CAY Time: 1.1 **Costs:** 0.00

Florida Key Deer, et al v. R.D. Paulson, et al **05-16374-II**

11th Circuit **Judges: TBA** **Date Filed: 11/10/05**

Appeal of Southern District's injunction in 90-10037-CIV.

Growth Management/Planning **RBS**

Current Status: Jurisdiction briefs requested by Court.

Next Activity: File jurisdiction briefs.

CAY Time: 0.5 **Costs:** 0.00

Monroe County v. Florida Key Deer, et al **05 --- TBA**

11th Circuit **Judges: TBA** **Date Filed: 12/12/05**

Appeal of denial of County's motion to intervene in 90-10037-CIV.

Growth Management/Planning **RBS**

Current Status: Notice of appeal just filed.

Next Activity: Record compiled, draft briefs.

Time: 0.5

Rodriguez, Vivian v. Monroe County, Islamorada, & DOT **CA P 05-526**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/30/05**
Action for negligence.
Public Works/Risk Management **RBS**

Current Status: Awaiting service on Mayor.

Next Activity: Analyze outside counsel needs/requirements once served.

CAY Time: 0.2

Costs:

CASES CLOSED SINCE LAST MONTH'S REPORT

Drewing, Janice v. Monroe County **3D 04-3044**
Third DCA **Judges: Levy, Ramirez & Rothenberg** **Date Filed: 11/29/04**
Appeal of denial of writ of mandamus in personnel matter.
Community Services/Social Services/Personnel **RBS**

Current Status: Mandate Issued, 10/14/05.

Next Activity: Close file.

Time: 32.9 hours

Costs: \$15.00

Evans, Brian v. Monroe County, et al **CIV S 04-1042 LRH**
U.S.D.C. Nevada **Judge: Jones** **Date Filed: 7/28/04**
Same allegations as Florida case 04-CIV-10033 that were dismissed.
MCSO **RBS**

Current Status: None, affirmed on appeal.

Next Activity: Close File.

Fees billed to date: None

Costs: 0.00

Evans, Brian v. MCSO, Monroe County, et al **O4-17429**
9th Circuit **Judges: O'Scannlain, Callahan & Beach** **Date Filed: 12/09/04**
Appeal of Nevada Court's dismissal of suit in CIV S 04-1042 LRH.
MCSO **RBS**

Current Status: Decision became final on 12/15/05.

Next Activity: Close file.

Fees billed to date: None.

Costs: 0.00

Evans, Brian v. KW Citizen, Monroe County, et al **CV S 04-1742-KJD-LRL**
U.S.D.C. Nevada **Judge: Dawson** **Date Filed: 1/6/05**
Defamation suit over alleged misstatements by Mark Willis in the Citizen.
MCSO **RBS**

Current Status: None.

Next Activity: Close File.

Fees billed to date: None **Costs:** 0.00

Monroe County v. Mary Boza **CAK-03-1508**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settled. Closed.

Next Activity: None.

Fees billed to date: \$7,300.00 **Costs:** 0.00
CAY Time: 6.0 hours

Monroe County v. Dirk W. Damrau **CAK-05-667**
Circuit Court 16th **Judge: Miller** **Date Filed: 7/11/05**
Action to collect \$206,100.00 fine authorized by the BOCC 6/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settled for \$4748.00. Dismissed 12/19/05.

Next Activity: CLOSED.

Time: 5.5 hours **Costs:** \$568.05

Monroe County v. Mark Fraleigh **CAP-03-647**
Circuit Court 16th **Judge: Garcia** **Date Filed: 12/8/03**
Ejectment action against owner of structures located on County right-of-way.
Public Works/Roads and Bridges. **RBS**

Current Status: Dismissed by Court after settlement. Closed.

Next Activity: None.

Time: 33.6 hours **Costs:** \$256.80.

CAY LITIGATION – Trial & Appellate Level
See Outside Counsel Section for Cases being Handled Jointly

Ambrose, Thora et al v. Monroe County et al **CA P 97-636**

Circuit Court 16th **Judge: Garcia** **Date Filed: 12/11/97**

Declaratory Judgment action claiming vested rights due to subdivision plats.
Subsequent appeal of summary judgment order reversed and remanded.

Growth Management/Planning **JDS**

Current Status: County Attorney's office substituted in for Morgan & Hendrick on 12/15/05.

Next Activity: Hearing on Motion to Dismiss.

Billing to date: \$30,960.98 as of 7/31/05.

CAY Time: 0.5

In re: Birch Telecom, Inc. **05-12237 PJW**

U.S.Bnktcy.Delaware **Judge: Walsh** **Date Filed: 8/12/05**

Bankruptcy action by pay phone vendor which claims it owes County \$4.15 for providing pay phones on County property.

Administrative Services/Technical Services **RBS**

Current Status: Claim deadline passed 11/4/05. County's interest \$4.15.

Next Activity: None.

Time: .5

Costs: 0.00

Collins, C. & Sum Air Services v. Monroe County, et al **CAM-05-146**

Circuit Court 16th **Judge: Payne** **Date Filed: 6/1/05**

Declaratory judgment action regarding lease with FBO at Marathon Airport.

Airports **PJM**

Current Status: Awaiting service of complaint.

Next Activity: Once served, determine if outside counsel should be retained.

Time: 0.3 hours

Costs: 0.00

Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services **CAK-05-617**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/05**
Complaint for unspecified damages. Mayor not served yet.
MCSO **RBS**

Current Status: Awaiting service.

Next Activity: Once served, determine if insurance coverage requires retaining outside counsel.

Time: 0.6 hours **Costs:** 0.00

Drawing, Janice v. James Roberts as County Administrator **CAK-04-686**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/25/04**
Mandamus action seeking hearing in personnel dispute between plaintiff and her supervisor Louis Latorre.
Community Services/Social Services/Personnel **RBS**

Current Status: Jurisdiction returned 10/18/05 with Mandate.

Next Activity: Dismissal by Court.

Time: 20.0 hours **Costs:** 0.00

Eads, Barbara v. Monroe County **CAP-03-117**
Circuit Court 16th **Judge: Garcia** **Date Filed: 2/27/03**
Appeal of order finding the Lowe House to be in unsafe condition.
Growth Management/Code Enforcement **RBS**

Current Status: Appeal stayed pending application for variance and building permit.

Next Activity: None scheduled.

Time: 3.6 hours **Costs:** 0.00

EEOC v. Monroe County **150-2005-03773**
EEOC – Miami **Judge: N/A** **Date Filed: 9/7/05**
Charge of disability discrimination filed by an employee.
Public Works/Personnel **PJM**

Current Status: Reasonable cause letter issued.

Next Activity: Conciliation to be scheduled.

Time: 16.5 hours **Costs:** 0.00

Fed. Nat'l Mortg. Assn. v. M. Coleman, Monroe County, et al **CAK-05-171**
Circuit Court 16th **Judge: Jones** **Date Filed: 2/18/05**
Mortgage foreclosure case where County holds an inferior lien of \$1,928.00.
Article V Liens. **PJM**

Current Status: Foreclosure sale set aside 11/30/05.

Next Activity: Intervenor appealing order setting aside sale.

Time: 2.9 hours **Costs:** 0.00

Fuchs, Walburga v. Monroe County **CAK-01-1251**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/5/01**
This is a code enforcement appeal of an OSTDS case.
Growth Management/Code Enforcement **RBS**

Current Status: The County's brief filed; case reassigned to Judge Payne.

Next Activity: Await Court's decision.

Time: 11.5 hours **Costs:** 0.00

Hardin, Michelle v. Monroe County **CA K 99-1046**
Circuit Court 16th **Judge: Miller** **Date Filed: 9/3/99**
Appeal of code enforcement decision.
Growth Management/Code Enforcement **PJM**

Current Status: Status review on pending motions.

Next Activity: Hearing on Motion to Dismiss, tba.

M&H Billing to date: \$10,241.57 thru 8/31/05.
CAY Time: 0.5

I.C. & E. v. Monroe County **01-CV-10105**
U.S. D.C.SDFla. **Judge: King** **Date Filed: 10/4/01**
Declaratory judgment action regarding wireless tower moratoria.
Growth Management/Planning **RBS**

Current Status: 11th Circuit directed District Court to dismiss case. County Attorney's Office substituted in as Counsel 12/15/05.

Next Activity: Awaiting order of dismissal.

Billing to date: \$18,966.92 as of 8/31/05.
CAY Time: 0.5

Johnson, Lloyd v. Marlene Conaway **CA K 02-1248**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/30/02**
Writ of Mandamus challenging Planning Director's determination that boundary determination by alleged error requires zoning map amendment.
Growth Management/Planning **JDS**

Current Status: County Attorney's Office substituted as counsel 12/15/05.

Next Activity: Hearing on Motion to Dismiss to be set.

Billing to date: \$2,219.62 as of 8/31/05.

CAY Time: .05

LaSalle Bank, N.A. v. Alexis & Jesus Victores & Monroe County **CAP 05-373**
Circuit Court 16th **Judge: Garcia** **Date Filed: 8/29/05**
Mortgage foreclosure action where County holds an inferior \$100.00 lien.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment of foreclosure entered 12/14/05.

Next Activity: Auction 1/20/06.

Time: 1.4 hours

Costs: 0.00

Monroe County v. R. Bernstein/Safe Harbor Marine Railway **CAK-05-732**
Circuit Court 16th **Judge: Miller** **Date Filed: 7/26/05**
Code enforcement lien foreclosure. Over \$221,800.00.
Growth Management/Code Enforcement **RBS**

Current Status: Negotiations ongoing.

Next Activity: DF given till 12/19/05 to file responsive pleading.

Time: 7.7 hours

Costs: \$576.00

Monroe County v. Matthew Bonnett **CAK-05-911**
Circuit Court 16th **Judge: TBA** **Date Filed: 9/9/05**
Code enforcement lien collection action authorized 10/17/04, \$78,000.
Growth Management/Code Enforcement **PJM**

Current Status: DF answered 11/22/05.

Next Activity: Discovery.

Time: 3.1 hours

Costs: \$295.00

Monroe County v. Jack Hagopian **CAP-03-529**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/1/03**
Code enforcement collection action authorized by BOCC on 8/20/03. Fine was \$203,100.00 as of 9/30/03 and accruing at \$250.00 per day.
Growth Management/Code Enforcement **RBS**

Current Status: Discovery.

Next Activity: Mediation 1/6/6 @ 1 pm in Marathon.

Time: 32.0 hours **Costs:** \$233.60.

Monroe County v. Dorothy Hough, et al **CAP-05-160**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/6/05**
Code enforcement collection action authorized by BOCC on 9/17/03. As of 9/25/03 lien valued at \$25,050.00 and accruing at \$50.00 per day.
Growth Management/Code Enforcement **RBS**

Current Status: BOCC rejected offer to settle for \$2,500. Now compliant

Next Activity: BOCC to consider DFs offer of \$4,500 in Jan. 2006.

Time: 10.2 hours **Costs:** \$596.00

Monroe County v. James Jeanquenat **CAP-05 317**
Circuit Court 16th **Judge: Garcia** **Date Filed: 7/18/05**
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.
Growth Management/Code Enforcement **RBS**

Current Status: Motion for Dismiss filed.

Next Activity: Motion hearing TBA.

Time: 3.7 hours **Costs:** \$275.00

Monroe County v. Key Largo Ocean Resorts Coop, Inc. **CAP-96-260**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/20/96**
Action to foreclose a code enforcement lien.
Growth Management/Code Enforcement **RBS**

Current Status: Development agreement application being reviewed.

Next Activity: Status report due with the Court 1/1/06.

Time: 41.0 hours **Costs:** \$340.00

Monroe County v. Pedro Liz **CAK-05-420**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/22/05**
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.
Growth Management/Code Enforcement **RBS**

Current Status: Default set aside.

Next Activity: DF's Answer overdue.

Time: 8.1 hours **Costs:** \$555.00

Monroe County v. Arthur Mehr **CAP-05-348**
Circuit Court 16th **Judge: Garcia** **Date Filed: 8/5/05**
Code fine collection action. Fine exceeds \$42,000.00.
Growth Management/Code Enforcement **RBS**

Current Status: DF served answer 9/15/05.

Next Activity: Discovery due 1/9/06.

Time: 7.4 hours **Costs:** \$850.00.

Monroe County v. Outland Properties **CAP-05-400**
Circuit Court 16th **Judge: Garcia** **Date Filed: 9/9/5**
Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.
Growth Management/Code Enforcement **PJM**

Current Status: Defendant served.

Next Activity: Discovery.

Time: 1.1 hours **Costs:** 300.00

O'Daniel, John & Theresa Hill v. Monroe County **CA P 02-141**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/13/02**
Appeal of code enforcement action and vested rights claim.
Growth Management/Code Enforcement/Planning **JDS**

Current Status: Complete, on appeal. County Attorney's Office substituted as counsel on 12/15/05.

Next Activity: None pending appeal.

M&H Billing to date: \$42,782.73 as of 10/31/05.
CAY Time: 0.5

Nunziante, Marilyn v. Monroe County **CAK-04-1227**
Circuit Court 16th **Judge: Jones** **Date Filed: 11/18/04**
Suit challenging Bayshore's rule requiring family members to subsidize residents.
Community Services/Social Services **RBS**

Current Status: PL has been moved to nursing home due to declining health.

Next Activity: Discovery and/or settlement, TBA.

Time: 76.7 hours **Costs:** 0.00

Sierra Club, et al v. DCA, Miami Dade & City of Homestead **03-150-GM**
DOAH **Judge: Maloney** **Date Filed: 1/17/03**
Court intervened in administrative challenge to amendment of Miami-Dade's
comp. plan redesignating Krome Avenue to a major roadway.
Growth Management/Planning **JDS**

Current Status: Final hearing suspended by Hurricane Rita.

Next Activity: To resume at a date to be announced.

M& H Billing to date: None, *pro bono*.
CAY Time: 0.5

Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al **CAM-04-404**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/16/04**
Declaratory judgment action over road in City of Marathon.
Public Works/Roads and Bridges **PJM**

Current Status: Discovery. Settlement negotiations ongoing.

Next Activity: County's motion to dismiss TBA pending negotiations.

Time: 9.4 hours **Costs:** \$133.00

Troy, Daniel Scott v. Monroe County **CAK 05-856**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/24/05**
Mandamus action seeking after the fact building permits for structures erected on
Cooks Island in violation of the County Code.
Growth Management/Planning **RBS**

Current Status: On appeal in 3D 05-2419.

Next Activity: None while on appeal.

Time: 2.0 hours **Costs:** 0.00

Troy, Daniel Scott v. Monroe County **3D 05-2419**
Third DCA **Judges: TBA** **Date Filed: 10/7/05**
Appeal of denial of writ of mandamus in CA K 05-856.
Growth Management/Planning **RBS**

Current Status: Preparing record.

Next Activity: Troy's brief due 12/16/05

Time: .3 **Costs:** 0.00

Walgreens & Gadinsky v. Monroe County **CAK-05-266**
Circuit Court 16th **Judge: Taylor** **Date Filed: 3/11/05**
Cert. review of DOAH order upholding 1/6 findings supporting denial of major
conditional use application for Big Pine Walgreens.
Growth Management/Planning **RBS**

Current Status: Negotiations ongoing.

Next Activity: Final hearing 1/30/06.

Time: 20.8 hours **Costs:** 0.00

In re: Winn Dixie Stores, Inc. **05-03817-3F1**
U.S. Bankruptcy Ct., M.D.Fla. **Judge: Jerry Funk** **Date Filed: 2/25/05**
Voluntary Ch11 case where County *might* have a claim against the estate.
Bankruptcy **RBS**

Current Status: Could find no basis for filing proof of claim.

Next Activity: None needed.

Time: 0.9 hours **Costs:** 0.00

CAY POST JUDGMENT CASES

Monroe County v. William L. Davis **CAP-04-181**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/15/04**
Money judgment of \$27,600.00 for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment of \$28,431.00 recorded w/ Dept. of State.

Next Activity: Collection.

Time: 6.2 hours **Costs:** \$56.00

Monroe County v. Dan Gleason **SCP-03-165**
County Court (Sm. Claims) Judge: Ptomey **Date Filed: 8/5/03**
Money judgment of **\$520.00** for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment recorded w/ Dept. of State.

Next Activity: Collection.

Time: 9.5 hours **Costs:** \$65.92

Monroe County v. Lily Marks **CAK-03-1152**
Circuit Court 16th Judge: Jones **Date Filed: 10/2/03**
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment entered for \$795,270.00 on 5/9/05.

Next Activity: Collection.

Time: 8.5 hours **Costs:** \$55.00

POTENTIAL CASES THAT HAVE NOT YET BEEN FILED

Calusa Campground Condo v. Monroe County, et al., **CA P 05 TBA**
Circuit Court (16th) Judge: **Date Filed:**
Threatened action by condominium resulting from statements regarding platting requirements by Growth Management personnel.
Growth Management/Planning **JDS**

Current Status: Investigating claim.

Next Activity: None scheduled.

Time: 0.5 **Costs:** 0.00

Good, Lloyd v. Monroe County **CAK-05-TBA**
Circuit Court (16th) **Judge:** **Date Filed:**
Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.
Growth Management/Planning **RBS**

Current Status: Settlement discussions underway.

Next Activity: None. Stayed during Good's application for major conditional use.

Time: 8.6 hours **Costs:** \$5.56

Hamelton, Charles v. KWRU & Monroe County **CA K 04-740**
Circuit Court (16th) **Judge: Miller** **Date Filed: 7/6/04**
Potential personal injury claim by scooter accident victim and/or utility seeking damages from the County. Handled jointly with Johnson, Anselmo.
Public Works/Roads and Bridges/Risk Management **RBS**

Current Status: County not a party at this time.

Next Activity: 11/18/05 County to produce documents to DFs.

Fees Billed to Date: 0.00 **Costs:** 0.00
CAY Time: 6.7

Harum, James v. Monroe County, DOH, & Z. Krstic **CAP-05-TBA**
Circuit Court 16th **Judge:** **Date Filed:**
Threatened action to compel County to prosecute code enforcement violation.
Growth Management/Code Enforcement **RBS/PJM**

Current Status: Underlying code case held 5/26/05, mitigation plan in effect.

Next Activity: Move to dismiss and for sanctions if filed since w/o merit.

Time: 2.4 hours **Costs:** 0.00

Monroe County v. Boy Scouts of America **CA K 06-TBA**
Circuit Court 16th **Judge: TBA** **Date Filed: TBA**
Code fine collection action. Fine fixed at \$408,000.00.
Growth Management/Code Enforcement **PJM**

Current Status: Needs BOCC approval to go forward.

Next Activity: Schedule for BOCC.

Time: .5 hours **Costs:** 0.00

Monroe County v. Jean M. Louis & Itnor Corp. **CAK-05-TBA**
Circuit Court 16th **Judge: TBA** **Date Filed:**
Code fine collection action authorized by BOCC on 10/17/04. \$34,200.00.
Growth Management/Code Enforcement **PJM**

Current Status: Owners not complying with settlement agreement approved by BOCC on 4/20/05.

Next Activity: File foreclosure action if not resolved.

Time: 1.5 hours **Costs:** 0.00

Monroe County v. Blair & Althea Mooney **CAK-05-TBA**
Circuit Court 16th **Judge: TBA** **Date Filed:**
Code lien collection action authorized by BOCC on 10/17/04. \$146,100.00.
Growth Management/Code Enforcement **PJM**

Current Status: Fine of \$7,305.00 paid.

Next Activity: Finalize settlement agreement.

Time: .5 hours **Costs:** 0.00

State of Florida v. Monroe County **TBA**
TBA **Judge: TBA** **Date Filed: n/a**
Threatened action by AG's Medicaid Fraud unit regarding alleged over billings for ambulance services.
Public Safety/Fire Rescue **RBS**

Current Status: Waiting for AG's office to set up conference.

Next Activity: Settlement conference with State.

Time: 9.2 hours **Costs:** 0.00

CASES BEING LITIGATED BY OUTSIDE COUNSEL

Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.

Monroe County v. Bender & Associates, et al **CAK-03-915**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/4/03**
Breach of contract and negligent misrepresentation action arising from the
defective windows in the Gato building.
Engineering/Construction Management **RBS**

Current Status: Discovery ongoing.

Next Activity: Discovery ongoing.

Fees billed to date: \$69,892.50 **Costs:** \$8,773.50 (thru 10/31/5)

Monroe County v. Jose Gonzalez **CA K TBA**
Circuit Court 16th **Judge: TBA** **Date Filed: TBA**
Possible breach of contract action against County's former architect.
Engineering/Construction Management **RBS**

Current Status: Discussions with Gonzalez

Next Activity: Schedule meeting with staff & Gonzalez.

Ferencik, Libanoff Billing to Date: \$3,885.50
CAY Time: 12.5

Monroe County v. Lodge Construction, et al **CAK-00-617**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/11/00**
Suit filed against general contractor Lodge Construction & its surety for breach of
contract to build Gato Building.
Engineering/Construction Management **RBS**

Current Status: Reserved on appeal November 24, 2004. New trial granted.
Mandate issued 2/16/05.

Next Activity: Set for trial.

Fees billed to date: \$298,015.25 **Costs:** \$71,523.31 (thru 10/31/05).

Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.

Bauknight, Skaggs & Rockett v. Monroe County **CAP-04-451**
Circuit Court 16th **Judge: Garcia** **Date Filed: 9/24/04**
Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.
Growth Management/Planning **RBS**

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$832.24 **Costs:** 0.00

Bauknight, Skaggs & Rockett v. Monroe County **04-CV-10105**
U.S. D.C. S.Fla. **Judge: Moore** **Date Filed: 11/1/04**
Inverse condemnation/takings case by owners of 3 Big Pine lots.
Growth Management/Planning **RBS**

Current Status: Federal Court remanded to State Court. Attorney's fee motion appealed to 11th Circuit.

Next Activity: None.

Fees billed to date: None **Costs:** 0.00

Bauknight, et al. v. Monroe County **05-10868-F**
11th Cir. Ct. of Appeals **Judge: TBA** **Date Filed: 2/11/05**
Appeal of denial of attorney's fees motion filed against the County by takings case plaintiffs. County had removed the case to Federal Court; plaintiffs sought remand and attorneys fees. Case was remanded to state court but fees denied. Plaintiffs are seeking between \$15,000 and \$18,000 in fees.
Growth Management/Planning **RBS**

Current Status: Briefs completed; oral argument held 12/9/05.

Next Activity: None; await decision of Court.

Fees billed to date: None. **Costs:** 0.00

Florida Key Deer v. Michael Brown & Gale Norton **90-10037-CIV-Moore**
U.S. Dist. Ct., SD Fla. **Judge: Moore** **Date Filed: 4/2/90**
Endangered Species Act case that resulted in permanent injunction barring
FEMA from backing flood insurance for 49,000 parcels in County.
Growth Management/Planning **RBS**

Current Status: Court extended appellate deadline to 12/15/05 to give time
to rule on County's motion to intervene.

Next Activity: Negotiating partial settlement, ruling on intervention.

Billing to Date: none **Costs:** 0.00
CAY Time: 33.8

Florida Key Deer, et al v. Gale Norton (Sec. of Interior) **05-10063-CIV-KING**
U.S.D.C. S.D.Fla. **Judge: King** **Date Filed: 6/15/05**
Endangered Species Act challenge to Fish & Wildlife Service's review of
County's application to construct park on Big Pine Key.
Engineering/Construction Management **RBS**

Current Status: Case stayed while F&WS revises biological opinion.

Next Activity: Stayed until January 2006.

Fees billed to date: \$612.50 **Costs:** 0.00
CAY Time: 6.3

FKCC & Last Stand v. FL Admin. Comm., Monroe County **DOAH 04-2756**
DOAH **Judge: Carolyn Holifield** **Date Filed: 08/05/04**
Administrative Rule challenge to partnership agreement with State.
Growth Management/Planning **RBS**

Current Status: Final Order in County's favor issued 6/29/05.

Next Activity: None pending appeal.

Fees billed to date: \$59,464.92 **Costs:** 0.00
CAY Time: 190.1 hours

FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al 3D05-1800

Third DCA

Judges: TBA

Date Filed: 7/28/05

Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.

Growth Management/Planning

RBS

Current Status: Appellant's brief filed.

Next Activity: County & DCA's brief deadline extended.

Fees billed to date: none

CAY Time: 0.5 hours

Costs: 0.00

Hardee, Evelyn v. Monroe County

CAP-05-255

Circuit Court 16th

Judge: Garcia

Date Filed: 6/3/05

Tort action arising from alleged fall at PK Court house.

Risk Management/Public Works

RBS

Current Status: Discovery.

Next Activity: Discovery motion phone hearing 11/16/05.

Fees billed to date: \$660.20

Costs: 0.00

CAY Time: 2.4 hours

Kessler, Stuart v. Monroe County & Tom Willi

CA K 05-1006

Circuit Court 16th

Judge: Jones

Date Filed: 10/11/2005

Complaint for injunctive relief and damages under Whistle-Blower Act, Civil

Rights Act, defamation and interference with business relationship.

Personnel/Risk Management

RBS

Current Status: Ct. denied temporary reinstatement on 10/31/05. Motion to Dismiss pending.

Next Activity: Hearing on Motion to Dismiss 1/4/06.

Billing to date: 0.00

CAY Time: 24.8

Costs: 0.00

Neuman, Kenneth v. Monroe County **CAK-04-663**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**
Action for damages and to compel County to issue building permits.
Growth Management/Planning **RBS**

Current Status: Discovery.

Next Activity: Deposition of Plaintiff 11/28/05.

Fees billed to date: \$2,326.92 **Costs:** 0.00
CAY Time: 5.8 hours

Riverview Consultants, Inc. v. Monroe County **CAK-05-373**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/05**
Tortious interference with contract case. League of City's carrier counsel.
Risk Management/Airport/MCSO **PJM**

Current Status: Pleadings complete.

Next Activity: Motions and discovery.

Fees billed to date: \$743.86 **Costs:** 0.00
CAY Time: 4.0 hours

Morgan & Hendrick

Emmert, Helen & Greg v. Monroe County **CA P 02-520**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/2/02**
Inverse condemnation and vested rights action.
Growth Management/Planning **RBS**

Current Status: PL's filed Third Amended Complaint. Reviewing to determine if should be brought in house.

Next Activity: File Motion to Dismiss. .

Billing to date: \$94,550.56 as of 10/31/05.

Good, Lloyd v. Monroe County **CA K 01-977**

Circuit Court 16th **Judge: Payne** **Date Filed: 8/9/01**

Inverse condemnation action based on NROGO and declaratory judgment that owner be awarded permits for properties.

Growth Management/Planning **RBS**

Current Status: PL filed Second Amended Complaint.

Next Activity: Hearing on County's Motion to Dismiss.

Billing to date: \$18,526.41 as of 10/31/05.

CAY Time: 2.5

Kalan, Suzanne v. Monroe County **CA P 03-155**

Circuit Court 16th **Judge: Garcia** **Date Filed: 3/11/03**

Inverse condemnation action.

Growth Management/Code Enforcement **RBS**

Current Status: Held in abeyance pending BUD hearing.

Next Activity: none.

Billing to date: \$2,855.77 as of 8/31/05.

O'Daniel & Hill v. Monroe County **3D-05-583**

Third DCA **Judges: TBA** **Date Filed: 3/18/05**

Appeal of circuit court decision in CA P 02-141.

Growth Management/Code Enforcement/Planning **JDS**

Current Status: Court affirmed denial of O'Daniel's attorney's fees.

Next Activity: Await issuance of mandate, then close file.

Billing to date: *See trial level report.*

Neumont, Elizabeth et al. v. Monroe County **99-10054-CV**

U.S. Dist. Ct., S.D.Fla. **Judge: Paine** **Date Filed: 5/21/99**

Class action challenging enactment of vacation rental ordinance.

Growth Management/Planning **RBS**

Current Status: Briefs completed. Reviewing to determine if should be brought in house.

Next Activity: None pending appeal.

Billing to date: \$123,563.24

Neumont, Elizabeth et al. v. Monroe County **04-13610-X**
11th Circuit Court of Appeals **Judges: TBA** **Date Filed: 7/15/04**
Appeal of 99-10054-CV above.
Growth Management/Planning **RBS**

Current Status: Briefs completed; oral argument held 11/18/05. Reviewing to determine if should be brought in house.

Next Activity: None; awaiting decision of Court.

Billing to date: \$123,565.49 as of 8/31/05.

Paul, Hastings (Bob Freilich)
White & Smith (Tyson Smith)

Collins, Thomas, et al v. Monroe County **CAM-04-379**
Circuit Court 16th **Judge: Payne** **Date Filed: 11/22/04**
Takings action brought by 11 groups of plaintiffs.
Growth Management/Planning **RBS**

Current Status: County's summary judgment motion heard 11/30/05.

Next Activity: Court's ruling on County's motion for summary judgment.

Total Fees billed to date: \$655,174.26
CAY Time: 109.7 hours **Costs:** \$77,646.49

Galleon Bay v. Monroe County v. State of Florida **CA K 02-595**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/21/02**
Inverse condemnation and vested rights action.
Growth Management/Planning **RBS**

Current Status: Summary judgment motions pending.

Next Activity: Motions hearing 1/30/06.

M & H Billing to date: \$221,709.88 thru 10/31/05.
Paul, Hastings Billing: \$90,519.11.

Purdy, Jolly & Giuffreda, P.A.

Evans, Brian v. Monroe County, et al **04-CIV-10033-JLK**
U.S. Dist., S.D. Fla. (Miami) Judge: King **Date Filed: 5/6/04**
Civil action against the County, and others, arising from actions of Sheriff's office
in publicizing the rescission of a warrant it had obtained for his arrest.
MCSO **RBS**

Current Status: Award to County & Sheriff of \$4,579.00 in attorney's fees
against Evans for filing frivolous suit affirmed by 11th Circuit on 9/20/05.

Next Activity: Collection.

Fees billed to date: None **Costs:** 0.00
CAY Time: 9.5 hours

Evans, Brian v. MCSO, Monroe County, et al **05-10077-B**
11th Circuit Judges: Edmondson, Tjoflat & Dubina **Date Filed: 1/5/05**
Appeal of award of attorney's fees against Evans in 04-CIV-10033.
MCSO **RBS**

Current Status: Fee award affirmed 9/20/05; Mandate issued 10/19/05.

Next Activity: None. Decision becomes final 1/9/6.

Fees billed to date: None **Costs:** 0.00

The Smith Law Firm

Monroe County v. Post Buckley, Schuh, and Jernigan **CAK-95-402**
Circuit Court 16th Judge: Payne **Date Filed: 3/30/95**
Malpractice claim against the County's former engineering firm for miscalculation
of bonds necessary to finance improvements to Card Sound Road.
Engineering **RBS**

Current Status: Defense verdict 6/14/05.

Next Activity: Finalize attorney's fees.

Fees billed to date: \$636,405.88

Monroe County v. Post Buckley, Schuh, and Jernigan **3D05-1822**
Third DCA **Judges: TBA** **Date Filed: 8/1/05.**
Appeal of judgment in the above case.
Engineering **RBS**

Current Status: Organizing record.

Next Activity: County's brief deadline extended to 12/15/05.

Fees billed to date: see previous entry.

Vernis & Bowling of the Florida Keys, P.A.

GAP Properties of SW Florida-I, Inc. v. Monroe County **CAK-04-1321**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/10/04**
Cert. review of action involving failure to obtain plat approval of dock subdivision
and an improper change of use without a major or minor conditional use permit.
Growth Management/Planning **RBS**

Current Status: Certiorari denied, rehearing motion denied.

Next Activity: None, on appeal.

Fees billed to date: \$26,875.00 **Costs:** \$306.43

Gap Properties of SW Florida-I, Inc. v. Monroe County **3D05-2413**
Third DCA **Judges: TBA** **Date Filed: 10/14/5**
Second tier certiorari appeal of denial of petition challenging County's plat
approval rules for dockominiums, see CA K 04-1321 below.
Growth Management/Planning **RBS**

Current Status: County ordered to respond by Court.

Next Activity: County's brief due 1/6/6.

Fees billed to date: none. **Costs:** None

Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry **CAK-04-224**
Circuit Court 16th **Judge: Jones** **Date Filed: 3/2/04**

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications.

Growth Management/Planning **RBS**

Current Status: Third Amended petition pending.

Next Activity: Respond to Third Amended petition 1/6/6.

Fees billed to date: \$32,290.50 **Costs:** \$2,540.84

Monroe County v. Alain Y. Depierrefeu **CAK-03-1504**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement **RBS**

Current Status: Final default judgment entered on 6/21/05 for \$144,505.03.

Next Activity: CAY to substitute in as counsel and schedule auction.

Fees billed to date: None **Costs:** 0.00

Monroe County v. Alain Y. Depierrefeu **CAK-03-1507**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement **RBS**

Current Status: Final default judgment entered on 6/21/05 for \$616,555.03.

Next Activity: CAY to substitute as counsel and schedule auction.

Fees billed to date: None **Costs:** 0.00

CAY Time: 3.5 hours (both cases)

Monroe County v. Mary Ellen Lloyd **CAM-03-362**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/19/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

The total amount of the lien owed to the County is \$143,500.00.

Growth Management/Code Enforcement **RBS**

Current Status: Compliance achieved 8/31/04.

Next Activity: County Attorney's office to substitute in as counsel.

Fees billed to date: None **Costs:** 0.00

CAY Time: 2.3 hours

Monroe County v. James Messera, et al **CAK-03-1509**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Owners working on compliance.

Next Activity: County Attorney's office to substitute as counsel.

Fees billed to date: None **Costs:** 0.00

Monroe County v. Joe Posada, III **CAK-03-1503**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations.

Next Activity: CAY's to substitute as counsel.

Fees & Costs billed to date: None.
CAY Time: 4.6 hours

Monroe County v. Virginia Sawyer & Tony Welters **CAK-03-1505**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: DFs answered.

Next Activity: CAY to substitute as counsel.

Fees billed to date: None **Costs:** 0.00

Monroe County v. Virginia Sawyer **CAK-03-1506**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Tentative settlement reached.

Next Activity: BOCC to consider 12/21/05. CAY to substitute as counsel.

Fees & Costs billed to date: \$11,745.44
CAY Time: 4.3 hours

Monroe County v. Louis Welters **CAK-04-639**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/14/04**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: DF answered.

Next Activity: CAY's office to substitute as counsel.

Fees billed to date:None **Costs:** 0.00

Osborn, Jeff v. Monroe County **CAP-04-564**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
1 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning **RBS**

Current Status: Court denied petition 12/14/05.

Next Activity: None for next 30 days.

Fees billed to date: \$14,039.50 **Costs:** \$261.49

Osborn, Jeff v. Monroe County **CAP-04-565**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
2 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning **RBS**

Current Status: Oral argument held 12/15/05.

Next Activity: Await decision of Court.

Fees billed to date: \$3,920.50 **Costs:** \$146.93

Assigned ACA

PJM = Pedro Mercado

JDS = Jerry Sanders

RBS = Bob Shillinger

ⁱ Includes cases listed under outside counsel.

ⁱⁱ Article V issue, 3 bankruptcy claim, and Fire Rescue.